

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

THE MANUFACTURED HOUSING  
INSTITUTE; and THE TEXAS  
MANUFACTURED HOUSING  
ASSOCIATION,

Plaintiffs,

v.

THE UNITED STATES DEPARTMENT OF  
ENERGY; and JENNIFER M. GRANHOLM,

Defendants.

No. 1:23-CV-00174-DAE

**DEFENDANTS' UNOPPOSED MOTION TO STAY ANSWER DEADLINE**

Defendants the United States Department of Energy and Jennifer Granholm, Secretary of Energy, respectfully move the Court to stay the deadline to Answer or otherwise respond to Plaintiffs' Complaint, ECF No. 1, pending further order of the Court. In support of this motion, Defendants state the following:

1. Plaintiffs initiated this lawsuit and filed a Motion to Stay Agency Action and Request for Expedited Consideration and Hearing ("Stay Motion") on February 14, 2023. *See* Compl., ECF No. 1; Pls.' Mot. to Stay Agency Action., ECF No. 5. Plaintiffs challenge DOE's recent promulgation of energy conservation standards for manufactured housing, Energy Conservation Program: Energy Conservation Standards for Manufactured Housing, 87 Fed. Reg. 32,728 (May 22, 2022), and seek a stay of the energy conservation standards' May 31, 2023, compliance date. Compl. at 1-2; Pls.' Mot. to Stay Agency Action at 1.

2. The United States Attorney for the Western District of Texas was served a copy of the summons and Complaint on February 21, 2023. *See* Summons Return, ECF No. 19.

3. Federal government defendants have 60 days from service on the United States Attorney to respond to a complaint. *See* Fed. R. Civ. P. 12(a)(2). Accordingly, Defendants' response to the Complaint in this action currently is due no later than April 24, 2023. *See* Fed. R. Civ. P. 6(a)(1)(C) (providing that when the last day of a period falls on a Saturday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday).

4. Plaintiffs' Stay Motion is fully briefed. *See* Defs.' Mem. in Opp'n to Pls.' Mot. to Stay Agency Action, ECF No. 32; Pls.' Reply, ECF No. 35.

5. On March 24, 2023, Defendant DOE noticed its proposal to delay the May 31, 2023, compliance date to provide the agency with additional time to establish enforcement procedures that will provide clarity to manufacturers and other stakeholders regarding how DOE will evaluate compliance. *See Energy Conservation Standards for Manufactured Homes; Extension of Compliance Date*, 88 Fed. Reg. 17,745 (Mar. 24, 2023).

6. In light of the fully briefed Stay Motion, the preparation and filing of an Answer or other response to Plaintiffs' Complaint would not meaningfully advance the litigation at this point and would not serve the interests of judicial and party economy. That is particularly so given that DOE's proposal to delay the May 31, 2023, compliance date will enable DOE to conduct a rulemaking to establish enforcement procedures that will address how DOE will evaluate compliance prior to such compliance being mandatory. One of Plaintiffs' primary objections to the energy conservation standards is the lack of compliance and enforcement procedures. *See* Compl. ¶¶ 61-71, 115, 123-25; Pls.' Mot. to Stay Agency Action at 4-7, 18. DOE's proposed delay of the compliance date and intent to promulgate enforcement procedures, if ultimately

adopted by the agency, would likely narrow the issues requiring judicial resolution, if not obviate the need for judicial intervention entirely.

7. Defendants have consulted with Plaintiffs regarding this Motion, and Plaintiffs do not object to the relief sought herein.

8. Accordingly, Defendants respectfully request that the Court stay the deadline for Defendants to Answer or otherwise respond to Plaintiffs' Complaint.

Dated: April 12, 2023

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/s/ Kristina A. Wolfe  
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#### CERTIFICATE OF SERVICE

On April 12, 2023, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Western District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Kristina A. Wolfe